

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance
(916) 322-5662

• • Administration • •
322-5660

• • Executive/Legal • •
322-5901

• • Enforcement
322-6441

October 18, 1984

Gerald A. Sperry
City Attorney
City of Stockton
City Hall
Stockton, CA 95202

Re: Your Request for Advice
Our File No. A-84-236

Dear Mr. Sperry:

Thank you for requesting advice on behalf of Stockton Mayor Randall Ronk concerning his reporting obligations under the Political Reform Act^{1/} for funds received and expended for Mayor Ronk's defense in a criminal action.

FACTS PRESENTED

The San Joaquin County District Attorney has filed a criminal complaint against Mayor Ronk alleging that he claimed and received reimbursement from the City of Stockton for travel expenses that he did not incur. Funds have been raised to help pay the costs of Mayor Ronk's defense in this matter, and more funds will be raised for this purpose in the future.

QUESTIONS PRESENTED

1. Are funds given to Mayor Ronk or his existing campaign committee for his criminal defense contributions or gifts?
2. If Mayor Ronk sets up a special fund to provide for his legal defense, are the monies donated to that fund contributions or gifts?

^{1/} Government Code Sections 81000-91014. All statutory references are to the Government Code unless otherwise noted.

3. If other persons set up a special fund to provide for Mayor Ronk's defense, are the monies donated to that fund contributions or gifts? Are the funds donated by this fund to Mayor Ronk contributions or gifts?

CONCLUSIONS

1. Any funds given to Mayor Ronk or his existing committee for his legal defense are contributions.

2. Monies given to a special fund set up by Mayor Ronk to provide for his legal defense are contributions, and monies expended from this fund are expenditures.

3. If a special fund is set up by persons other than Mayor Ronk to provide for his legal defense, the fund will probably be a committee, and monies received by the fund will be contributions to the fund. Monies given from this fund to Mayor Ronk or his committee are contributions to the Mayor or his committee.

DISCUSSION

The Political Reform Act does not contain any prohibitions on the use of campaign funds. Questions concerning the "personal use of campaign funds" statute (Elections Code Sections 12400, et seq.) should be addressed to the Attorney General's Office.

The only question under the Political Reform Act is whether donations made to Mayor Ronk or raised on his behalf for his criminal defense will constitute contributions under Section 82015, or gifts under Section 82028. If the payments are contributions, they must be reported on campaign statements

The term "contribution" is defined in Section 82015 to mean "a payment ... except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes." By regulation, the Commission has further elaborated that a payment is made for political purposes if it is:

* * *

(2) Received by or made at the behest of:

(A) A candidate, unless it is clear from surrounding circumstances that the payment was received or made at his or her behest for personal purposes unrelated to his or her candidacy or status as an office holder....

2 Cal. Adm. Code Section 18215^{2/}.

Since the criminal charges against Mayor Ronk relate to his status as an officeholder, all monies raised and spent for his defense are contributions and expenditures within the meaning of the Political Reform Act. This conclusion is consistent with our past advice that legal defense funds set up for or by candidates or officeholders are political in nature unless the matter is purely personal (e.g., a divorce).

Accordingly, Mayor Ronk must report all monies that he receives or spends for his defense on his campaign statements. If he sets up a special legal defense fund, this fund should register as a recipient committee (Sections 82013(a) and 84100) and file campaign statements as a controlled committee.


If other persons set up a fund to raise monies for Mayor Ronk's legal defense, all monies given to this fund are contributions. The fund will qualify as a recipient committee once it raises \$500. See Section 82013(a). As a committee, it must file a statement of organization and periodic campaign statements. All the regular campaign reporting rules apply. All monies this fund spends on Mayor Ronk's behalf are contributions to Mayor Ronk reportable both by the fund and by Mayor Ronk. If the fund qualifies as a recipient committee, Mayor Ronk must report any sums received from or expended on his behalf by the fund as contributions from the fund. He need not itemize individual contributors to the fund, since the fund must itemize them on its own campaign statements. If the fund does not qualify as a recipient committee but gives \$100 or more to Mayor Ronk, Mayor Ronk should report the funds as contributions coming directly from the individuals involved.

^{2/} The term "expenditure" is defined in a similar manner. See Section 82025 and 2 Cal. Adm. Code Section 18215.

Gerald A. Sperry
October 18, 1984
Page 4

If I can be of further assistance, please feel free to
contact me at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane Maura Fishburn", with a long horizontal flourish extending to the right.

Diane Maura Fishburn
Staff Counsel
Legal Division

DMF:plh

SEP 11 8 03 AM '84



September 6, 1984

Jay Greenwood, Chief
Technical Assistance & Analysis Division
Fair Political Practices Commission
P. O. Box 807
Sacramento CA 95804-0807

REPORTING REQUIREMENTS

Dear Mr. Greenwood:

Mayor Randall (Randy) Ronk of the City of Stockton has requested an opinion from the Fair Political Practices Commission as to the proper reporting requirements of funds received and funds utilized for the purpose of providing for his, Mayor Ronk's, criminal defense.

The facts are as follows: a criminal complaint has been filed by the San Joaquin County District Attorney alleging Mayor Ronk claimed and received reimbursement from the City of Stockton for travel expenses that he did not incur. Funds have been and are intended to be generated to pay the costs of Mayor Ronk's criminal defense. The potential sources of said funds are: (1) Existing campaign funds; (2) Funds directly provided Mayor Ronk by individuals for his defense; (3) Funds directly provided Mayor Ronk by existing non-controlled committees for his defense; and (4) Funds collected by a committee specifically created to provide funds for his defense.

The questions presented are as follows:

1. May existing campaign funds be expended to provide for Mayor Ronk's criminal defense?
2. Are funds directly provided Mayor Ronk by individuals for his criminal defense, reportable as campaign contributions or as gifts?

Jay Greenwood, Chief
Technical Assistance & Analysis Division
September 6, 1984
Page 2

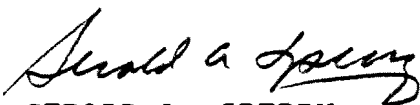
3. Are funds directly provided Mayor Ronk by existing non-controlled committees for his criminal defense reportable as campaign contributions or as gifts?
4. For purposes of disclosure, what is the source of funds in No. 3 above, the committee or the individuals who contributed to the committee?
5. Are funds collected by a committee specifically created to provide for Mayor Ronk's criminal defense reportable as campaign funds or as gifts?
6. For purposes of disclosure, what is the source of funds in No. 5 above, the committee or the individuals who contributed to the committee?

It is the opinion of this office that:

1. Existing campaign funds may be expended by Mayor Ronk for his criminal defense;
2. Funds directly provided by individuals for his criminal defense are reportable as gifts;
3. Funds directly provided by non-controlled committees for his criminal defense are reportable as gifts;
4. The source of funds in No. 3 above for purposes of disclosure is the committees;
5. Funds collected by a committee specifically created to provide for his criminal defense are reportable as gifts; and
6. The source of funds in No. 5 above is the individual who contributed to the committee.

Your prompt attention and assistance in this matter is needed and is appreciated.

Sincerely,



GERALD A. SPERRY
CITY ATTORNEY
GAS:plc
cc: Mayor Ronk